

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel W.A.
DREW EDMONDSON in his capacity as
ATTORNEY GENERAL OF THE STATE
OF OKLAHOMA, ET AL.

Plaintiff,

vs.

TYSON FOODS, INC., ET AL.

Defendants.

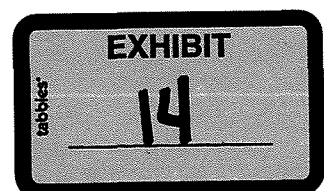
Case No. 05-CV-0329-GKF-SAJ

**STATE OF OKLAHOMA'S RESPONSE TO DEFENDANT'S REQUEST'S FOR
ADMISSION**

Pursuant to Fed. R. Civ. P. 36, plaintiff State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA ("the State"), objects and responds as follows to "Defendants' Requests for Admission to the State of Oklahoma":

GENERAL OBJECTIONS

1. The State objects to the definition of "Plaintiffs," "you" and "your" to the extent it includes "all offices, personnel, entities, and divisions of the Oklahoma state government" and to the extent it includes "W.A. Drew Edmondson and the office of the Oklahoma Attorney General, Miles Tolbert and the office of the Oklahoma Secretary of the Environment and their attorneys, experts, consultants, agents and employees." The plaintiff -- singular -- in this action is the State as sovereign; it is not these additional entities and individuals. Accordingly, wherever in these requests for admission the terms "Plaintiffs" [sic], "you" and "your" are used the State is responding as the sovereign and the sovereign alone.



2. The State objects to the definition of "non-point source." The CWA does not define "non-point source." See *American Wildlands v. Browner*, 260 F.3d 1192, 1193 (10th Cir. 2001) ("Unlike point source discharges, nonpoint source discharges are not defined by the Act. One court has described nonpoint source pollution as 'nothing more than a [water] pollution problem not involving a discharge from a point source.'") (citation omitted).

3. The State objects to the definition of "CERCLA Hazardous Substances List" insofar as it might (or is intended to) create the erroneous impression that specific mention on the defendant-defined "CERCLA Hazardous Substances List" is the sole inquiry for triggering CERCLA liability with respect to "hazardous substances." It is important to note that the concentration of a hazardous substance is not relevant to whether CERCLA liability is triggered for a substance. Further, it is enough that a mixture or waste solution contain a hazardous substance for that mixture or solution to be deemed hazardous under CERCLA. Yet further, even if a material is not specifically listed as a hazardous substance, if its components include one or more hazardous substances, the material falls under CERCLA. Finally, the listing of elemental chemicals on various EPA lists used in CERCLA is intended to include compounds of such chemicals for purposes of determining whether a chemical / chemical compound is a hazardous substance for purposes of CERCLA liability.

4. The State objects to these discovery requests to the extent that they seek the admission or denial of matters that are protected by the attorney-client privilege and/or the work product doctrine, or to the extent that they require the State to admit or deny matters which are the subject of review by expert consultants which has not yet been completed.

5. The State objects to these requests for admission because the purport to require the State to admit or deny matters without any limitation in time, which makes them overly

broad, oppressive, unduly burdensome and expensive to answer. Determining whether a particular act or event has ever occurred would needlessly and improperly burden the State.

6. The State objects to these requests for admission to the extent that they do not state with the required degree of specificity and particularity what matter is sought to be admitted or denied. As such, such requests are vague, indefinite, ambiguous and not susceptible to easily discernible meaning, requiring the State to guess as to what it is admitting or denying, or to admit or deny a statement readily susceptible to alternative interpretations.

7. The State objects to the definition of “human feces” as including urine, which is contrary to the common definition, and makes requests to admit subject to being misconstrued.

8. The State objects that Defendants’ various definitions of “elemental” phosphorus, nitrogen, copper, arsenic, and zinc (Definitions 8, 10, 12, 14, and 16) and “compounds” of phosphorus, nitrogen, copper, arsenic and zinc, (Definitions 9, 11, 13, 15, and 17) are unrealistic, contrary to science, and ambiguous in their application because “compounds” of each constituent necessarily contain the “elemental” form. However, for purposes of the admissions and denials which follow (and for these purposes alone), the State “accepts” Defendants’ definitions that each “elemental” constituent is pure and unmixed with any other element while each “compound” contains the “elemental” constituent in chemical combination with another element. For purposes of the admissions and denials which follow (and for these purposes alone), the State will engage in the fictional premise that “elemental” constituents and “compounds” of those constituents as defined by Defendants are mutually exclusive terms.

REQUESTS FOR ADMISSION

I. PLAINTIFF'S DISCOVERY CONDUCT

REQUEST FOR ADMISSION NO. 1:

On one or more occasions during investigation and sampling in the Illinois River Watershed Plaintiffs entered a property without obtaining permission from the owner or administrator of the property.

RESPONSE TO REQUEST NO.1

The State objects to the term "Plaintiffs" and further objects to this request as irrelevant, as it is not relevant to any claim or defense of any party and is not likely to lead to admissible evidence.

REQUEST FOR ADMISSION NO. 2:

On one or more occasions during investigation and sampling in the Illinois River Watershed Plaintiffs collected samples of surface water, ground water, soil, sediment, or other media from a property without obtaining permission from the owner or administrator of the property.

RESPONSE TO REQUEST NO. 2

The State objects to the term "Plaintiffs" and further objects to this request as irrelevant, as it is not relevant to any claim or defense of any party and is not likely to lead to admissible evidence.

REQUEST FOR ADMISSION NO.3

On one or more occasions during investigation and sampling in the Illinois River Watershed Plaintiffs installed a sampling or monitoring device or devices on a property without obtaining permission from the owner or administrator of the property.

RESPONSE TO REQUEST NO. 3

The State objects to the term “Plaintiffs” and further objects to this request as irrelevant, as it is not relevant to any claim or defense of any party and is not likely to lead to admissible evidence.

REQUEST FOR ADMISSION NO. 4

On one or more occasions during investigation and sampling in the Illinois River Watershed Plaintiffs asked poultry producers who contract with one or more Defendants for permission to take samples or install a monitoring device on their property without notifying the Defendant with whom the poultry producer contracted or the poultry producer’s counsel.

RESPONSE TO REQUEST NO.4

The State objects to the term “Plaintiffs” and further objects to this request as irrelevant, as it is not relevant to any claim or defense of any party and is not likely to lead to admissible evidence.

II. PLAINTIFF’S STANDING TO BRING THE CLAIMS IN THE FIRST AMENDED COMPLAINT

REQUEST FOR ADMISSION NO. 5

The State of Oklahoma does not hold any interest in any natural resources in Oklahoma that have been committed or conveyed by the United States Government to Native American tribes.

RESPONSE TO REQUEST NO. 5

Denied.

REQUEST FOR ADMISSION NO. 6

The State of Oklahoma does not hold any interest in any natural resource within the political boundaries of Arkansas.

RESPONSE TO REQUEST NO.6

Admitted.

REQUEST FOR ADMISSION NO. 7

The State of Oklahoma does not hold any interest in any lands or soils that are owned or held in trust by private parties.

RESPONSE TO REQUEST NO.7

Denied.

REQUEST FOR ADMISSION NO. 8

Oklahoma Attorney General W.A. Drew Edmondson does not represent the State of Arkansas, the citizens of Arkansas, the United States Government, or any Native American tribes in this litigation.

RESPONSE TO REQUEST NO. 8

Admitted.

III. PLAINTIFF'S CLAIMS THAT CERTAIN "HAZARDOUS SUBSTANCES" HAVE BEEN ALLEGEDLY "DISPOSED OF" OR "RELEASED" IN THE ILLINOIS RIVER WATERSHED THROUGH EACH DEFENDANT'S ACTIVITIES AND OPERATIONS

REQUEST FOR ADMISSION NO. 9

The following substances occur naturally within the Illinois River Watershed: phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, bacteria and bacteria.

RESPONSE TO REQUEST FOR ADMISSION NO.9

The State objects to the term "naturally" as it is not defined. The State interprets "naturally" to mean that these substances would have occurred in nature before human

intervention. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection, the State denies that elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper occur naturally within the Illinois River Watershed. The State admits that phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, hormones and bacteria may occur naturally within the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 10

Poultry litter does not contain elemental phosphorus.

RESPONSE TO ADMISSION NO. 10

This request is being responded to in accordance with and subject to objection number 8. Admitted.

REQUEST FOR ADMISSION NO. 11

Elemental phosphorus is on the CERCLA Hazardous Substances List.

RESPONSE TO ADMISSION NO 11.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 12

The following substances are not on the CERCLA Hazardous Substances List: phosphate, orthophosphate, elemental nitrogen, and elemental copper.

RESPONSE TO ADMISSION NO 12.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies that phosphate,

orthophosphate, and elemental copper “are not” on the CERCLA Hazardous Substances list. The State admits that elemental nitrogen is not on the CERCLA Hazardous substances list.

REQUEST FOR ADMISSION NO. 13

No phosphorus compounds, nitrogen compounds, zinc compounds, or copper compounds found in poultry litter are on the CERCLA Hazardous Substances List.

RESPONSE TO ADMISSION NO.13

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 14

The following substances do not contribute to eutrophication in the Illinois River Watershed: nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones and bacteria.

RESPONSE TO REQUEST NO. 14.

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Further, the request is ambiguous because it seeks a response concerning the environmental effects of multiple substances and because Defendants do not define “contribute” and “eutrophication”. This request is being responded to in accordance with and subject to objection number 8. Therefore, the Plaintiff can neither admit nor deny this statement in total, as written. The terms “eutrophication” and “contribute” may have variable definitions that will change the response. Also, the effects of the substances listed in this Request vary greatly with respect to their “contribution” to “eutrophication”. Definitions of eutrophication vary in the scientific literature from its original application referring to increasing productivity of lakes to the more common and broader

definition used today referring to increasing productivity of all types of surface waters by inorganic nutrients and organic materials. It is also important to distinguish between natural versus anthropogenic eutrophication. Productivity of some types of surface waters increases naturally, but very slowly over very long periods of time by naturally occurring nutrients and organic materials accumulating within their basins. Anthropogenic eutrophication refers to the acceleration of the eutrophication process by nutrient and organic matter pollution from human activities. Nitrogen compounds directly stimulate productivity in lakes, reservoirs and streams. Indirectly, the following compounds would not “contribute” to eutrophication, but may retard productivity: elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds. It is possible that hormones may “contribute” to the productivity of bacteria, algae, cyanobacteria and other aquatic organisms. Additionally, adding substantial amounts of bacteria to surface waters may increase abundances and activities of these organisms and thereby “contribute” to increased productivity and respiration.

REQUEST FOR ADMISSION NO. 15

Poultry litter is not on the CERCLA hazardous Substances List.

RESPONSE TO REQUEST NO. 15

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. Subject to and without waiver of this objection, the State admits. However, many of the constituents that make up “poultry litter” are contained on the CERCLA Hazardous Substance list as defined herein. Further, poultry litter and its constituents are hazardous substances for the purposes of CERCLA liability.

REQUEST FOR ADMISSION NO. 16

Bacteria levels in Oklahoma’s streams are not a public health problem.

RESPONSE TO REQUEST NO. 16

Denied.

**IV. CAUSATION AND OTHER POTENTIAL SOURCES OF ALLEGED
“HAZARDOUS SUBSTANCES”**

REQUEST FOR ADMISSION NO. 17

There are fewer than 1,800 poultry houses currently being used to raise poultry in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 17

Denied.

REQUEST FOR ADMISSION NO. 18

Less than 30% of the poultry houses currently being used to raise poultry in the Illinois River Watershed are located in Oklahoma.

RESPONSE TO ADMISSION NO. 18

Admitted. However, it is irrelevant because waste generated in both states injures the natural resources located in Oklahoma.

REQUEST FOR ADMISSION NO. 19

There are multiple sources that contribute one or more of the following substances to the environment of the Illinois River Watershed: phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, and bacteria.

RESPONSE TO ADMISSION NO. 19

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any

objection, the State denies that there are multiple sources that contribute elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper. The State admits that there are multiple sources that contribute phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, copper compounds, hormones and bacteria to the environment of the IRW.

REQUEST FOR ADMISSION NO. 20

Waste water treatment plants ("WWTPs") contribute phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 20

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. Subject to and without waiver of this objection, the State denies, assuming for the purposes of this request, the request relates to elemental phosphorus and in accordance with and subject to objection number 8..

REQUEST FOR ADMISSION NO. 21

WWTPs contribute phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 21

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term "contribute" is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, phosphorus compounds to the "environment of the Illinois River Watershed" as defined herein because phosphorus compounds discharged from WWTPs already exist in the "environment" as defined. The State admits that certain WWTPs do release phosphorus

compounds to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 22

WWTPs contribute elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO.22

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request.

REQUEST FOR ADMISSION NO. 23

WWTPs contribute nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 23

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, nitrogen compounds to the “environment of the Illinois River Watershed” as defined herein because nitrogen compounds discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute nitrogen compounds to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 24

WWTPs contribute elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 24

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 25

WWTPs contribute arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 25

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, arsenic compounds to the “environment of the Illinois River Watershed” as defined herein because arsenic compounds discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute arsenic compounds to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 26

WWTPs contribute elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 26

The State objects to this request on grounds of vagueness, ambiguity and relevance inasmuch as the term “contribute” is not defined with reference to amount. This request is being

responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 27

WWTPs contribute zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 27

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, zinc compounds to the “environment of the Illinois River Watershed” as defined herein because zinc compounds discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute zinc compounds to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 28

WWTPs contribute elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 28

The State objects to this request on grounds of vagueness, ambiguity and relevance inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 29

WWTPs contribute copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 29

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, copper compounds to the “environment of the Illinois River Watershed” as defined herein because copper compounds discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute copper compounds to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 30

WWTPs contribute hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 30 The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, hormones to the “environment of the Illinois River Watershed” as defined herein because hormones discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute hormones to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 31

WWTPs contribute bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 31

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection the State denies this request because WWTPs do not contribute, in the sense of adding or supplying, bacteria to the “environment of the Illinois River Watershed” as defined herein because bacteria discharged from WWTPs already exist in the “environment” as defined. The State admits that certain WWTPs do contribute bacteria to a “portion thereof,” specifically the surface waters of the IRW pursuant to a federal discharge permit.

REQUEST FOR ADMISSION NO. 32

Plaintiffs have concluded that municipalities within the Illinois River Watershed should improve their wastewater treatment facilities.

RESPONSE TO REQUEST NO. 32 The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. The State further objects to this request as it vague as to what “concluded” means. There have been administrative orders issued by the State regarding WWTPs and the State has entered into a Joint Statement of Principles and Actions with the State of Arkansas in order to reduce phosphorus levels from WWTPs in Arkansas. The State admits only to the extent that the State has issued orders and entered into agreements in order to improve WWTP facilities; however the State denies that it has “concluded” that all municipalities should improve their facilities.

REQUEST FOR ADMISSION NO. 33

Sewage ponds owned or maintained by cities or towns within the Illinois River Watershed have overflowed during storms and discharged untreated sewage into the streams of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 33

The State admits that, on limited occasions, a sewage pond owned or maintained by a city or town overflowed during a storm. After making a reasonable inquiry, the State cannot state with certainty whether all such overflows reached streams in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 34

When WWTPs release waste from their waste water treatment ponds into streams within the Illinois River Watershed without full treatment of that water, such dumping increases bacteria levels in the stream.

RESPONSE TO REQUEST NO. 34

The State objects to the term “dumping” as any “release” is a permitted discharge under the Clean Water Act and is not “dumping.” Subject to and without waiver of this objection, the State admits that any discharge from a WWTP not done in accordance with their pre-treatment requirements is an unlawful discharge and can increase bacteria in any body of water receiving such discharge.

REQUEST FOR ADMISSION NO. 35

There are more than 70,000 septic systems in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 35

After making a reasonable inquiry, the State is unable to admit or deny this request because it currently lacks full information necessary to definitively respond.

REQUEST FOR ADMISSION NO. 36

Septic systems contribute elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 36

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 37

Septic systems contribute phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO.37

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, phosphorus compounds to the “environment of the Illinois River Watershed” as defined herein because phosphorus compounds released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute phosphorus compounds to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 38

Septic systems contribute elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 38

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 39

Septic systems contribute nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 39

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, nitrogen compounds to the “environment of the Illinois River Watershed” as defined herein because nitrogen compounds released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute nitrogen compounds to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 40

Septic systems contribute elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 40

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 41

Septic systems contribute arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 41

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, arsenic compounds to the “environment of the Illinois River Watershed” as defined herein because arsenic compounds released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute arsenic compounds to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 42

Septic systems contribute elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO.42

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 43

Septic systems contribute zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 43

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of this objection the State denies this request because septic systems do not contribute, in the sense of adding or supplying, zinc compounds to the “environment of the Illinois River Watershed” as defined herein because zinc compounds released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute zinc compounds to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 44

Septic systems contribute elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 44

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 45

Septic systems contribute copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 45

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any

objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, copper compounds to the “environment of the Illinois River Watershed” as defined herein because copper compounds released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute copper compounds to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 46

Septic systems contribute hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 46

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, hormones to the “environment of the Illinois River Watershed” as defined herein because hormones released from septic systems already exist in the “environment” as defined. The State admits that septic systems do contribute hormones to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 47

Septic systems contribute bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 47

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State denies this request because septic systems do not contribute, in the sense of adding or supplying, bacteria to the “environment of the Illinois River Watershed” as defined herein because bacteria released from septic systems already exist in the “environment” as

defined. The State admits that septic systems do contribute bacteria to a “portion thereof,” specifically the soils of the IRW.

REQUEST FOR ADMISSION NO. 48

Portions of the stream banks within the Illinois River Watershed have eroded over the past 50 years.

RESPONSE TO REQUEST NO. 48

Admitted.

REQUEST FOR ADMISSION NO. 49

Stream bank erosion contributes elemental phosphorus to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 49

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 50

Stream bank erosion contributes phosphorus compounds to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 50

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits to the extent that stream bank erosion conveys phosphorus

compounds already contained within, but does not independently contribute phosphorus compounds to surface waters.

REQUEST FOR ADMISSION NO. 51

Stream bank erosion contributes elemental nitrogen to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 51

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 52

Stream bank erosion contributes nitrogen compounds to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 52

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits to the extent that stream bank erosion conveys nitrogen compounds already contained within, but does not independently contribute nitrogen compounds to surface waters.

REQUEST FOR ADMISSION NO. 53

Stream bank erosion contributes elemental arsenic to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 53

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies.

REQUEST FOR ADMISSION NO. 54

Stream bank erosion contributes arsenic compounds to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 54

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits to the extent that stream bank erosion conveys arsenic compounds already contained within, but does not independently contribute arsenic compounds to surface waters.

REQUEST FOR ADMISSION NO. 55

Stream bank erosion contributes elemental zinc to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 55

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 56

Stream bank erosion contributes zinc compounds to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 56

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits to the extent that stream bank erosion conveys zinc compounds already contained within, but does not independently contribute zinc compounds to surface waters.

REQUEST FOR ADMISSION NO. 57

Stream bank erosion contributes elemental copper to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 57

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies.

REQUEST FOR ADMISSION NO. 58

Stream bank erosion contributes copper compounds to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 58

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits to the extent that stream bank erosion conveys copper compounds already contained within, but does not independently contribute copper compounds to surface waters.

REQUEST FOR ADMISSION NO. 59

Stream bank erosion contributes hormones to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 59

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits to the extent that stream bank erosion conveys hormones already contained within, but does not independently contribute hormones to surface waters.

REQUEST FOR ADMISSION NO. 60

Stream bank erosion contributes bacteria to surface waters within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 60

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits to the extent that stream bank erosion conveys bacteria already contained within, but does not independently contribute bacteria to surface waters.

REQUEST FOR ADMISSION NO. 61

The removal of trees and other vegetation from stream banks has caused increased stream bank erosion within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 61

Admitted.

REQUEST FOR ADMISSION NO. 62

The construction of buildings, roads, and parking lots within the Illinois River Watershed has caused increased erosion within the Illinois River Watershed.

RESPONSE TO REQUEST NO 62.

The State objects to this request as it is vague and ambiguous inasmuch as the request does not identify any specific construction projects which have increased erosion in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 63

Allowing livestock to access streams increases erosion of the stream's banks.

RESPONSE TO REQUEST NO. 63

Admitted.

REQUEST FOR ADMISSION NO. 64

Livestock have caused stream bank erosion within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 64

Admitted.

REQUEST FOR ADMISSION NO. 65

Cattle deposit manure directly into streams in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 65

Admitted, to the extent that cattle may at some time deposit manure directly into streams of the IRW.

REQUEST FOR ADMISSION NO. 66

Constituents from cattle manure deposited onto fields and pastures in the Illinois River Watershed by grazing cattle have run off into streams in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 66

Admitted, to the extent that cattle may at some time deposit manure directly into streams of the IRW, however, some of the constituents contained in cow manure is a direct result of the land application of poultry waste on to fields and pastures.

REQUEST FOR ADMISSION NO. 67

The most polluted streams in Oklahoma are in western Oklahoma where cattle access streams.

RESPONSE TO REQUEST NO. 67

The State objects to this request as it is irrelevant to the facts and issues in this case. Further, the State objects to the term “most polluted” as it is vague and ambiguous. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 68

Cattle manure contributes elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 68

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 69

Cattle manure contributes phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 69

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies this request because cattle do not contribute, in the sense of adding or supplying, phosphorus compounds to the “environment of the Illinois River Watershed” as defined herein because phosphorus compounds released from cattle already exist in the “environment” as defined. The State admits that cattle do release phosphorus compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 70

Cattle manure contributes elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 70

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 71

Cattle manure contributes nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 71

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because cattle do not contribute, in the sense of adding or supplying, nitrogen compounds to the “environment of the Illinois River Watershed” as defined herein because nitrogen compounds released from cattle already exist in the “environment” as defined. The State admits that cattle do release nitrogen compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 72

Cattle manure contributes elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 72

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 73

Cattle manure contributes arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 73

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any

objection the State denies this request because cattle do not contribute, in the sense of adding or supplying, arsenic compounds to the “environment of the Illinois River Watershed” as defined herein because arsenic compounds released from cattle already exist in the “environment” as defined. The State admits that cattle do release arsenic compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 74

Cattle manure contributes elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 74

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 75

Cattle manure contributes zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 75

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because cattle do not contribute, in the sense of adding or supplying, zinc compounds to the “environment of the Illinois River Watershed” as defined herein because zinc compounds released from cattle already exist in the “environment” as defined. The State admits that cattle do release zinc compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 76

Cattle manure contributes elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 76

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 77

Cattle manure contributes copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 77

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because cattle do not contribute, in the sense of adding or supplying, copper compounds to the “environment of the Illinois River Watershed” as defined herein because copper compounds released from cattle already exist in the “environment” as defined. The State admits that cattle do release copper compounds to a “portion thereof,” of the IRW.

REQUEST FOR ADMISSION NO. 78

Cattle manure contributes hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 78

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection the State admits.

REQUEST FOR ADMISSION NO. 79

Cattle manure contributes bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 79

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 80

If you answered yes to any one of the requests for admission numbered 68-79, admit that cattle manure contributes a greater amount of the substance addressed in that request or requests to the environment of the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 80

Denied.

REQUEST FOR ADMISSION NO. 81

Manure from wildlife contributes elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 81

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 82

Manure from wildlife contributes phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 82

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, phosphorus compounds to the “environment of the Illinois River Watershed” as defined herein because phosphorus compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release phosphorus compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 83

Manure from wildlife contributes elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 83

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 84

Manure from wildlife contributes nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 84

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, nitrogen compounds to the “environment of the Illinois River Watershed” as defined herein because nitrogen compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release nitrogen compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 85

Manure from wildlife contributes elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO.85

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 86

Manure from wildlife contributes arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 86

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies this request because wildlife do not contribute, in the sense of adding or supplying, arsenic compounds to the “environment of the Illinois River Watershed” as defined herein because arsenic compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release arsenic compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 87

Manure from wildlife contributes elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 87

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 88

Manure from wildlife contributes zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 88

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, zinc compounds to the “environment of the Illinois River Watershed” as defined herein because zinc compounds released from wildlife already exist in the “environment” as

defined. The State admits that wildlife do release zinc compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 89

Manure from wildlife contributes elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 89

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 90

Manure from wildlife contributes copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 90

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies this request because wildlife do not contribute, in the sense of adding or supplying, copper compounds to the “environment of the Illinois River Watershed” as defined herein because copper compounds released from wildlife already exist in the “environment” as defined. The State admits that wildlife do release copper compounds to a “portion thereof,” the IRW.

REQUEST FOR ADMISSION NO. 91

Manure from wildlife contributes hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 91

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 92

Manure from wildlife contributes bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 92

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 93

Each year more than 180,000 persons float the Illinois River by canoe, raft or kayak and more than 300,000 persons swim, fish, camp, hike, bird-watch, and hunt in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 93

The State objects to this request as a compound request that is overly burdensome, expensive, and vague and ambiguous. The request asks the State to admit or deny that 180,000 people float and 300,000 swim, fish, camp, hike, bird-watch, and hunt. This requires the State to respond to 7 different requests for admissions and determine whether 300,000 engage in each and every one of the activities listed, or whether the request is cumulative of all of the activities

listed. The State is unable to determine from information reasonably available to it whether to admit or deny this request, particularly as regards the Arkansas portion of the IRW.

REQUEST FOR ADMISSION NO. 94

Some of the human feces from tourists and recreationers within the Illinois River Watershed is released into the environment without treatment.

RESPONSE TO REQUEST NO. 94

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 95

Human feces contribute elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 95

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 96

Human feces contribute phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 96

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. The State objects to the Defendants

definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 97

Human feces contribute elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 97

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 98

Human feces contribute nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 98

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 99

Human feces contribute elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 99

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 100

Human feces contribute arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 100

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. The State objects to the Defendants’ definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO.101

Human feces contribute elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 101

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 102

Human feces contribute zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 102

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants’ definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 103

Human feces contribute elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 103

The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 104

Human feces contribute copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 104

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants definition of the term “human feces” and responds only on the basis as that term is commonly

understood. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of these objections, the State admits.

REQUEST FOR ADMISSION NO. 105

Human feces contribute hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 105

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants’ definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 106

Human feces contribute bacteria to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 106

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. The State objects to the Defendants’ definition of the term “human feces” and responds only on the basis as that term is commonly understood. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 107

Several types of manufactured fertilizer (“commercial fertilizer”) are bought and sold within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 107

Admitted.

REQUEST FOR ADMISSION NO. 108

Commercial fertilizer has been applied to lands in the Illinois River Watershed for more than 30 years.

RESPONSE TO REQUEST NO. 108

Admitted, to the extent that commercial fertilizer has been applied to some but not all lands in the IRW.

REQUEST FOR ADMISSION NO. 109

Commercial fertilizer contributes elemental phosphorus to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 109

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 110

Commercial fertilizer contributes phosphorus compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 110

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains phosphorus compounds, as not all commercial fertilizers contain phosphorus compounds.

REQUEST FOR ADMISSION NO. 111

Commercial fertilizer contributes elemental nitrogen to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 111

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in

accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 112

Commercial fertilizer contributes nitrogen compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 112

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains nitrogen compounds as not all commercial fertilizers contain nitrogen compounds.

REQUEST FOR ADMISSION NO. 113

Commercial fertilizer contributes elemental arsenic to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 113

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.114

Commercial fertilizer contributes arsenic compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 114

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains arsenic compounds as not all commercial fertilizers contain arsenic compounds.

REQUEST FOR ADMISSION NO. 115

Commercial fertilizer contributes elemental zinc to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 115

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO 116.

Commercial fertilizer contributes zinc compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 116

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains zinc compounds as not all commercial fertilizers contain zinc compounds.

REQUEST FOR ADMISSION NO.117

Commercial fertilizer contributes elemental copper to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 117

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 118

Commercial fertilizer contributes copper compounds to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 118

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits but only to the extent that some of the commercial fertilizer contains copper compounds as not all commercial fertilizers contain copper compounds.

REQUEST FOR ADMISSION NO. 119

Commercial fertilizer contributes hormones to the environment of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 119

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount. Subject to and without waiver of this

objection, the State admits but only to the extent that the Commercial fertilizer contains hormones.

REQUEST FOR ADMISSION NO. 120

The State of Oklahoma does not limit by regulation the amount of commercial fertilizer that can be lawfully applied to lands within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 120

Denied. The State does prohibit the application of commercial fertilizer generally by prohibiting the creation of a nuisance or polluting the waters of the State.

REQUEST FOR ADMISSION NO. 121

The extent to which, if at all, constituents from poultry litter can be transported by run-off to Oklahoma's scenic rivers will vary depending on the terrain and slopes of the sites of litter application, the proximity to the scenic rivers and conditions of the intermediate zones between the sites and the waters.

RESPONSE TO REQUEST NO. 121

Admitted to the extent that there are numerous other factors which affect the extent to which poultry litter can be transported by run-off to Oklahoma's scenic rivers.

REQUEST FOR ADMISSION NO. 122

Poultry houses are not point sources of elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, or bacteria present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 122

This request is being responded to in accordance with and subject to objection number 8. Admitted, except for those poultry houses which are registered as CAFOs and considered as point sources under the Clean Water Act or Oklahoma law.

REQUEST FOR ADMISSION NO 123.

Point sources contribute more elemental phosphorus to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 123

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 124

Point sources contribute more phosphorus compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 124

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 125

Point sources contribute more elemental nitrogen to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 125

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 126

Point sources contribute more nitrogen compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 126

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 127

Point sources contribute more elemental arsenic to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 127

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 128

Point sources contribute more arsenic compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 128

The State has made a reasonable inquiry and that the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 129

Point sources contribute more elemental zinc to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 129

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 130

Point sources contribute more zinc compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 130

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 131

Point sources contribute more elemental copper to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 131

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 132

Point sources contribute more copper compounds to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 132

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 133

Point sources contribute more hormones to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 133

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 134

Point sources contribute more bacteria to the streams in the Illinois River Watershed than poultry litter.

RESPONSE TO REQUEST NO. 134

Denied.

REQUEST FOR ADMISSION NO. 135

Sources other than poultry litter contribute at least 50% of the elemental phosphorus that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 135

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 136

Sources other than poultry litter contribute at least 50% of the phosphorus compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 136

Denied.

REQUEST FOR ADMISSION NO. 137

Sources other than poultry litter contribute at least 50% of the elemental nitrogen that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 137

This request is being responded to in accordance with and subject to objection number 8.
Denied.

REQUEST FOR ADMISSION NO. 138

Sources other than poultry litter contribute at least 50% of nitrogen compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 138

This request is being responded to in accordance with and subject to objection number 8.

Denied.

REQUEST FOR ADMISSION NO. 139

Sources other than poultry litter contribute at least 50% of the elemental arsenic that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 139

This request is being responded to in accordance with and subject to objection number 8.

Denied.

REQUEST FOR ADMISSION NO. 140

Sources other than poultry litter contribute at least 50% of the arsenic compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 140

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 141

Sources other than poultry litter contribute at least 50% of the elemental zinc that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 141

This request is being responded to in accordance with and subject to objection number 8. The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 142

Sources other than poultry litter contribute at least 50% of the zinc compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 142

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 143

Sources other than poultry litter contribute at least 50% of the elemental copper that is contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 143

This request is being responded to in accordance with and subject to objection number 8. Denied.

REQUEST FOR ADMISSION NO. 144

Sources other than poultry litter contribute at least 50% of the copper compounds that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 144

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 145

Sources other than poultry litter contribute at least 50% of the hormones that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 145

The State has made a reasonable inquiry and the information currently known or readily obtainable by the State is insufficient to enable the State to admit or deny this request.

REQUEST FOR ADMISSION NO. 146

Sources other than poultry litter contribute at least 50% of the bacteria that are contributed to the Illinois River Watershed.

RESPONSE TO REQUEST NO. 146

Denied.

REQUEST FOR ADMISSION NO. 147

Constituents from poultry litter have not come to be located on every parcel of land in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 147

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the phrase "come to be located on every parcel" is not defined. Subject to and without waiver of this objection, the State denies. The constituents of poultry litter have been found throughout the IRW.

REQUEST FOR ADMISSION NO. 148

When a river is impounded, the impounded water collects nutrients and sediments that are flowing in the water.

RESPONSE TO REQUEST NO. 148

The State objects that this request is vague and ambiguous. The request as asked is incomprehensible.

REQUEST FOR ADMISSION NO. 149

Impounded rivers naturally eutrophicate over time.

RESPONSE TO REQUEST NO. 149

The State objects to the request because it is ambiguous as the term “naturally eutrophicate” and the word “time” are vague and indefinite. They do not address the period of time for the impoundment, nor is there a definition of “natural” or “eutrophicate.” The State therefore cannot admit or deny the Defendants’ request. Whether an impounded river becomes “eutrophied” depends on the type and concentrations of substances (other than water) that are in the river, the time period over which the river is impounded, and the type of impoundment.

V. PLAINTIFF’S ALLEGATION THAT DEFENDANTS ARE LIABLE FOR THE ACTIONS OF POULTRY PRODUCERS

REQUEST FOR ADMISSION NO. 150

One or more poultry producers who perform services for the Defendants in this case does so pursuant to written contracts.

RESPONSE TO REQUEST NO. 150

Admitted.

REQUEST FOR ADMISSION NO. 151

Plaintiffs do not contend that the contracts between poultry producers and Defendants are invalid.

RESPONSE TO REQUEST NO. 151

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "invalid" as it is vague. The State further objects to this request as vague and ambiguous as it does not specify which contracts with which integrators, what types of contracts and the specific terms of the contract intended to be addressed by the request. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 152

The contracts between poultry producers and the Defendants do not call for the performance of any illegal activity.

RESPONSE TO REQUEST NO. 152

The State objects to this request as vague and ambiguous as it does not specify which contracts with which integrators, what types of contracts and the specific terms of the contract intended to be addressed by the request. Subject to and without waiver of this objection, the State denies. Illegal activity inevitably and foreseeably results from the poultry operations carried out pursuant to some contracts.

REQUEST FOR ADMISSION NO. 153

Plaintiffs have no evidence how much poultry litter from poultry producers who grow poultry under contract with each defendant has been applied to pastures in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 153

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiving this objection, the State denies.

REQUEST FOR ADMISSION NO. 154

Plaintiffs have no evidence of how much elemental phosphorus in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO.154

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 155

Plaintiffs have no evidence of how much phosphorus compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 155

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.156

Plaintiffs have no evidence of how much elemental nitrogen in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 156

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 157

Plaintiffs have no evidence of how much nitrogen compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 157

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 158

Plaintiffs have no evidence of how much elemental arsenic in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 158

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 159

Plaintiffs have no evidence of how much arsenic compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 159

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 160

Plaintiffs have no evidence of how much elemental zinc in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 160

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 161

Plaintiffs have no evidence of how much zinc compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 161

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 162

Plaintiffs have no evidence of how much elemental copper in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO.162

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 163

Plaintiffs have no evidence of how much copper compounds in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 163

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 164

Plaintiffs have no evidence of how much hormones in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 164

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 165

Plaintiffs have no evidence of how much bacteria in the environment of the Illinois River Watershed came from poultry houses that grow poultry under contract with the Defendants.

RESPONSE TO REQUEST NO. 165

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

VI. PLAINTIFFS' STATUS AS CONTRIBUTORS OR ARRANGERS OF ALLEGED HAZARDOUS SUBSTANCES

REQUEST FOR ADMISSION NO. 166

Plaintiffs own or operate sewage lagoons in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 166

The State objects to the term "Plaintiffs", as there is one Plaintiff, the State of Oklahoma.

Subject to and without waiving this objection, the State admits.

REQUEST FOR ADMISSION NO. 167

Plaintiffs own or operate underground storage tanks in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 167

The State objects to the term "Plaintiffs", as there is one Plaintiff, the State of Oklahoma.

The State further objects that this request is irrelevant to the claims and defenses of any party in this case.

REQUEST FOR ADMISSION NO. 168

Poultry litter has been used as fertilizer on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 168

Denied.

REQUEST FOR ADMISSION NO. 169

Plaintiffs have land-applied poultry litter in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 169

The State objects to the term "Plaintiff's" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits, only to that extent

that it has been done for educational and scientific purposes at demonstration sites in the Watershed.

REQUEST FOR ADMISSION NO. 170

Herbicides have been used on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 170

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits that herbicides have been used on some but not all lands owned by the State of Oklahoma.

REQUEST FOR ADMISSION NO. 171

Plaintiffs have applied herbicides in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 171

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits that herbicides have been used on some but not all lands owned by the State of Oklahoma.

REQUEST FOR ADMISSION NO. 172

Pesticides have been used on lands owned by the State of Oklahoma in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 172

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits that pesticides have been used on some but not all lands owned by the State.

REQUEST FOR ADMISSION NO. 173

Plaintiffs have applied pesticides in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 173

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits applying pesticides to some, but not all, of the lands of the IRW.

REQUEST FOR ADMISSION NO. 174

Lands owned by the State of Oklahoma in the Illinois River Watershed have been used to raise cattle.

RESPONSE TO REQUEST NO. 174

The State objects to this request as overly broad, oppressive, and unduly burdensome because it is not reasonably limited or specific as to time. Subject to and without waiver of this objection, the State admits that grazing leases were granted on the Cherokee Wildlife Management Area approximately over twenty-five years ago, but no grazing leases currently exist in the Illinois River Watershed and have not for at least twenty-five years.

REQUEST FOR ADMISSION NO. 175

Plaintiffs have purchased commercial fertilizer.

RESPONSE TO REQUEST NO. 175

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 176

Plaintiffs have applied commercial fertilizer to land within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 176

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits to applying commercial fertilizer on some but not all lands in the IRW.

REQUEST FOR ADMISSION NO. 177

The State of Oklahoma has issued permits allowing for the discharge of one or more of the following substances into the waters of the Illinois River Watershed: elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, and bacteria.

RESPONSE TO REQUEST NO. 177

This request is being responded to in accordance with and subject to objection number 8. The State denies that it has issued permits for the discharge of elemental phosphorus, elemental nitrogen, elemental arsenic, elemental zinc, hormones and elemental copper. The State admits to the extent that it that has issued permits to regulate the discharge to achieve compliance with Oklahoma water quality standards for phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, copper compounds and bacteria.

REQUEST FOR ADMISSION NO. 178

The State of Oklahoma has issued permits or promulgated regulations allowing the land application in the Illinois River Watershed of biosolids containing one or more of the following substances: elemental phosphorus, phosphorus compounds, elemental nitrogen, nitrogen compounds, elemental arsenic, arsenic compounds, elemental zinc, zinc compounds, elemental copper, copper compounds, hormones, and bacteria.

RESPONSE TO REQUEST NO. 178

This request is being responded to in accordance with and subject to objection number 8. The State denies that it has issued permits or promulgated regulations allowing for the land application of biosolids containing elemental phosphorus, elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper in the Illinois River Watershed because these constituents

are not anticipated to be present in biosolids. The State admits that it has in limited circumstances issued permits and promulgated regulations allowing land application of biosolids containing phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, copper compounds, hormones and bacteria in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 179

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed contains one or more septic systems.

RESPONSE TO REQUEST NO. 179

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 180

Ephemeral (seasonal) streams run through one or more parcels of real property owned by Plaintiffs within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 180

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waving this objection, the State admits.

REQUEST FOR ADMISSION NO. 181

Storm water runoff occurs from one or more parcels of real property owned by Plaintiffs within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 181

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the use of the phrase "storm water runoff" because it is not defined. Subject to and without waving these objections, the State admits that storm water runoff which is defined as "rain water runoff, snow melt runoff, and surface runoff and drainage"

occurs from one or more parcels of real property owned by the State in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 182

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental phosphorus present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 182

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State denies.

REQUEST FOR ADMISSION NO. 183

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of phosphorus compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 183

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State admits phosphorus compounds are present on real property owned by the State within the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 184

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental nitrogen present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 184

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waving any objection, the State denies.

REQUEST FOR ADMISSION NO. 185

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of nitrogen compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 185

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection the State admits that nitrogen compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 186

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental arsenic present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 186

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits Denies.

REQUEST FOR ADMISSION NO. 187

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of arsenic compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 187

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection the State admits that arsenic compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 188

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental copper present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 188

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 189

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of copper compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 189

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection, the State admits that copper compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 190

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of elemental zinc present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 190

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 191

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of zinc compounds present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 191

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection the State admits that zinc compounds are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 192

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of hormones present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 192

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. Subject to and without waiving this objection, the State admits that hormones are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 193

One or more parcels of real property owned by Plaintiffs within the Illinois River Watershed is a source of bacteria present in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 193

The State objects to the term "Plaintiff" as there is only one Plaintiff, the State of Oklahoma. The State objects to the term "source" as vague and ambiguous. Subject to and without waiving this objection the State admits that bacteria are present on real property owned by the State.

REQUEST FOR ADMISSION NO. 194

Plaintiffs have authority to conduct inspections, and do conduct inspections of farms that land apply poultry litter as a soil amendment and fertilizer.

RESPONSE TO REQUEST NO. 194

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 195

Construction, dredging or moving rocks or boulders within a streambed of the Illinois River Watershed can add sediment to the stream.

RESPONSE TO REQUEST NO. 195

Admitted.

REQUEST FOR ADMISSION NO. 196

Plaintiffs have engaged in construction or dredging within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 196

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 197

Plaintiffs have moved rocks or boulders within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 197

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits

REQUEST FOR ADMISSION NO. 198

Plaintiffs have issued one or more permits for construction or dredging within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 198

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 199

Plaintiffs have issued permits for moving rocks or boulders within a streambed of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 199

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 200

Plaintiffs have constructed and maintained unpaved roads in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 200

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 201

Plaintiffs’ construction and maintenance of unpaved roads has caused increased sediment in the streams of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 201

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. The State objects to the term “increased” as it is vague and ambiguous requiring an admission regardless of the how de minimus the increased sediment might be. Subject to and without waiving this objection, the State admits.

REQUEST FOR ADMISSION NO.202

Sediment from dirt or gravel roads contributes elemental phosphorous to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 202

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 203

Sediment from dirt or gravel roads contributes phosphorous compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 203

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.204

Sediment from dirt or gravel roads contributes elemental nitrogen to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 204

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO.205

Sediment from dirt or gravel roads contributes nitrogen compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 205

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.206

Sediment from dirt or gravel roads contributes elemental arsenic to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 206

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 207

Sediment from dirt or gravel roads contributes arsenic compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 207

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 208

Sediment from dirt or gravel roads contributes elemental zinc to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 208

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 209

Sediment from dirt or gravel roads contributes zinc compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 209

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO.210

Sediment from dirt or gravel roads contributes elemental copper to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 210

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 211

Sediment from dirt or gravel roads contributes copper compounds to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 211

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 212

Sediment from dirt or gravel roads contributes hormones to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 212

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO 213

Sediment from dirt or gravel roads contributes bacteria to the surface waters of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 213

The State objects to this request on grounds of vagueness and ambiguity inasmuch as the term “contribute” is not defined with reference to amount or origin. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 214

Plaintiffs have established .037mg/l as the limit for total phosphorus in designated scenic rivers within the Illinois River Watershed.

RESPONSE TO REQUEST NO. 214

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. The State further objects to the request as vague and ambiguous because the terms “established” and “limit” are not defined. Subject to and without waiving these objections, the State admits that Oklahoma Water Resources Board has promulgated a water quality standard applicable to scenic rivers in the Illinois River Watershed which provides that “[t]he thirty (30) day geometric mean total phosphorus concentration in waters designated "Scenic River" in Appendix A of this Chapter shall not exceed 0.037 mg/L.”

REQUEST FOR ADMISSION NO. 215

Even if no poultry litter were land applied within the Illinois River Watershed next year, Oklahoma's criterion of .037 mg/l for total phosphorus in designated scenic rivers could not be met without reductions in contributions from other sources.

RESPONSE TO REQUEST NO. 215

The State objects to this request because it is not limited in scope to the Illinois River Watershed and is vague and ambiguous because it does set forth the time frame for the hypothetical, identify the other sources, address the phosphorus releases from the Defendants' historical waste disposal practices, and does not define what is meant by the term "met" with regard to the phosphorus criterion.

Subject to and without waiving these objections, the State admits that, even if the Defendants stop disposing of poultry waste on land in the Illinois River next year, the Defendants' historic waste disposal practices would continue to release a substantial amount of phosphorus to the designated scenic rivers in the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 216

Point source concentrations of total phosphorus would have to be reduced to an average of 0.25 mg/l to support the State of Oklahoma's numerical water quality standard for total phosphorus of 0.037 mg/l in Oklahoma's Scenic Rivers, regardless of poultry litter application rates.

RESPONSE TO REQUEST NO. 216

Denied.

REQUEST FOR ADMISSION NO. 217

The damages and injunctive relief Plaintiffs seek in this case will place a substantial burden on Defendants.

RESPONSE TO REQUEST NO.217

Denied.

VII. PLAINTIFF'S ALLEGATIONS OF DAMAGES AND REQUEST FOR AN INJUNCTION

REQUEST FOR ADMISSION NO. 218

Plaintiffs have not conducted a Natural Resource Damage Assessment pursuant to 43 C.F.R. Part 11.

RESPONSE TO REQUEST NO. 218

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. The State objects to this request as to the phrase "have not conducted" is vague and ambiguous. Interpreting the phrase to mean "has not completed", and subject to and without waiver, the State admits.

REQUEST FOR ADMISSION NO. 219

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental phosphorus in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 219

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 220

Plaintiffs have not conducted any removal activities designed to reduce the levels of phosphorus compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 220

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 221

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental nitrogen in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 221

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of this objection, the State Admits.

REQUEST FOR ADMISSION NO. 222

Plaintiffs have not conducted any removal activities designed to reduce the levels of nitrogen compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 222

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 223

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental arsenic in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 223

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 224

Plaintiffs have not conducted any removal activities designed to reduce the levels of arsenic compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 224

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 225

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental zinc in the Illinois River Watershed.

RESPONSE TO REQUEST NO.225

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 226

Plaintiffs have not conducted any removal activities designed to reduce the levels of zinc compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 226

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8.

Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 227

Plaintiffs have not conducted any removal activities designed to reduce the levels of elemental copper in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 227

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 228

Plaintiffs have not conducted any removal activities designed to reduce the levels of copper compounds in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 228

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies.

REQUEST FOR ADMISSION NO. 229

Plaintiffs have not conducted any removal activities designed to reduce the levels of hormones in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 229

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State admits.

REQUEST FOR ADMISSION NO. 230

Plaintiffs have not conducted any removal activities designed to reduce the levels of bacteria in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 230

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 231

Plaintiffs have not incurred any costs for hauling poultry litter out of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 231

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 232

Plaintiffs have not incurred any costs associated with managing and disposing of poultry litter within or outside of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 232

The State objects to the term “Plaintiffs” as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

VIII. DEFENSES RELATING TO THE USE OF POULTRY LITTER AS A FERTILIZER AND SOIL AMENDMENT

REQUEST FOR ADMISSION NO. 233

Poultry litter has been used as a fertilizer or soil amendment in the Illinois River Watershed for more than fifty years.

RESPONSE TO REQUEST NO. 233

Admitted, to the extent in limited instances poultry litter has been used as a fertilizer or soil amendment at various times during the last fifty years. The State denies that poultry litter has been land applied as a fertilizer or soil amendment predominantly during that period of time.

REQUEST FOR ADMISSION NO. 234

The State of Oklahoma has issued animal waste management plans to poultry producers specifying the location and amounts for the land application of poultry litter in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 234

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 235

Animal waste management plans issued by the State of Oklahoma to poultry producers permit or authorize the application of poultry litter to lands in the Illinois River Watershed when soil tests show the soil of the relevant parcel of land contains total P of up to 300 lbs per acre.

RESPONSE TO REQUEST NO. 235

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

REQUEST FOR ADMISSION NO. 236

Animal waste management plans issued by the State of Oklahoma to poultry producers do not limit or restrict the land application of poultry litter in the Illinois River Watershed to the agronomic needs of plants or crops for elemental phosphorus or phosphorus compounds.

RESPONSE TO REQUEST NO. 236

The State objects to the term “issued” as the State does not issue animal waste management plans. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection the State denies.

REQUEST FOR ADMISSION NO.237

Plaintiffs have no evidence that animal waste management plans issued by the State of Oklahoma to poultry producers have been violated by the application of poultry litter to lands in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 237

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

REQUEST FOR ADMISSION NO. 238

Plaintiffs are not seeking any relief in this case that would prohibit the normal agricultural use of animal manure as fertilizer.

RESPONSE TO REQUEST NO. 238

The State objects to the term “issued” as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

IX. PLAINTIFF’S CLAIM OF AN “IMMINENT AND SUBSTANTIAL ENDANGERMENT” IN THE ILLINOIS RIVER WATERSHED

REQUEST FOR ADMISSION NO. 239

There is no imminent and substantial endangerment to health in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 239

Denied

REQUEST FOR ADMISSION NO. 240

There is no imminent and substantial endangerment to health in the Illinois River Watershed resulting from the land application of poultry litter.

RESPONSE TO REQUEST NO. 240

Denied.

REQUEST FOR ADMISSION NO. 241

There is no imminent and substantial endangerment to the environment in the Illinois River Watershed resulting from the land application of poultry litter.

RESPONSE TO REQUEST NO. 241

Denied.

REQUEST FOR ADMISSION NO. 242

Within the last 10 years, the State of Oklahoma has never advised people not to swim in any waters in the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 242

Denied.

REQUEST FOR ADMISSION NO. 243

Within the last 10 years, the State of Oklahoma has never advised people not to drink water which comes from the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 243

Denied.

REQUEST FOR ADMISSION NO. 244

Within the last 10 years, the State of Oklahoma has never advised people not to consume water supplied by the rural or municipal water treatment facilities which draw drinking water from the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 244

Denied.

REQUEST FOR ADMISSION NO. 245

Within the last 10 years, the State of Oklahoma has never advised people not to eat fish which come from the waters in the Illinois River Watershed due to pollution or water quality conditions.

RESPONSE TO REQUEST NO. 245

Denied.

X. COMPLIANCE WITH STATE LAW AS A DEFENSE TO PLAINTIFF'S CLAIMS

REQUEST FOR ADMISSION NO. 246

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 27A, § 2-6-105.

RESPONSE TO REQUEST NO. 246

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 247

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 2, § 2-18.1.

RESPONSE TO REQUEST NO. 247

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 248

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of Okla. Stat. tit. 2, § 10-9.7.

RESPONSE TO REQUEST NO. 248

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 249

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of OAC 35:17-5-5.

RESPONSE TO REQUEST NO. 249

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

REQUEST FOR ADMISSION NO. 250

Plaintiffs have no evidence of any instance in which a specific poultry grower under contract with the Defendants in the Illinois River Watershed has violated the provisions of OAC 35: 17-3-14.

RESPONSE TO REQUEST NO. 250

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without wavier of this objection, the State denies.

DOCUMENT REQUEST

For each of the above Requests that you deny, produce any and all documents in your possession, custody or control that support your statement of denial, together with a list describing to which Request(s) the documents pertain. If you have already produced documents covered by this document request to one or more of the Defendants, you need not re-produce those documents but may instead include a statement identifying by Bates number and description the specific documents previously produced and to which Request(s) those documents pertain.

RESPONSE TO DOCUMENT REQUEST

The State objects to producing documents in its possession, custody or control that support our statements of denial with a list describing to which Request the documents pertain to, by Bates number or otherwise.. Doing so would be unreasonably burdensome and expensive to the State. There is nothing in the Federal Rules which requires the State to do so. Documents that relate to the State's denial have already been produced in the State's agencies productions as they are kept in the usual course of business. Any documents not already produced that relate to these denials will be produced as they are kept in the usual course of business at further agency productions.

Discovery is ongoing, accordingly the State reserves all rights under the Federal Rules to supplement, amend, revise, or withdraw any response contained herein.

Respectfully Submitted,

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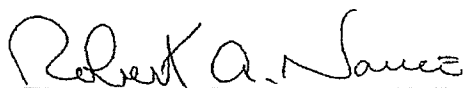
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